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TAGS: [ETRD](#) [EINV](#) [PGOV](#) [PREL](#) [KIPR](#) [KU](#)
SUBJECT: KUWAIT IPR UPDATE: COMMERCE MINISTRY PREPARING TO
TAKE THE LEAD ON ENFORCEMENT

REF: A. KUWAIT 508

[1](#)B. 05 KUWAIT 4402

[1](#)1. (SBU) Summary: On November 6 and 8, Econoff met separately with Commerce Assistant Undersecretary Abdulazziz Al-Khalidi and Ministry of Information Intellectual Property Department head Rasha Al-Sabah to discuss the Council of Ministers' decision to move responsibility for IPR enforcement from the Information Ministry (MOI) to the Ministry of Commerce and Industry (MOCI). Both officials were optimistic that the move to consolidate enforcement responsibility would pay dividends, avoiding the problem of poor interagency coordination which has long hindered GOK efforts on IPR. The officials said, however, the bureaucratic details involving personnel and budgets likely will not be completed until January 2007. Al-Sabah said the draft copyright law is "nearly done" but did not know when it might be presented to Parliament. Al-Sabah also stated that MP Nasser Al-Sane could be counted on to support the new law.

[1](#)2. (SBU) Econoff also met with Kuwait Customs IPR team head Osama Al-Shami and Warren Hayday of General Motors (GM) to discuss Customs' recent seizure of a container of oil filters which violated the AC Delco brand "trade dress." Customs was forced to release the container because the infringing design has been registered in Kuwait and was, therefore, "legal." Al-Shami stated his frustration with the lack of support from Customs legal department for Customs authority to seize these shipments, and with the MOCI for its lack of due diligence when registering trademarks. End Summary.

IPR Enforcement to be Consolidated at MOCI by January 2007

[1](#)3. (SBU) On November 6, Econoff met with Abdulazziz Al-Khalidi, Assistant Undersecretary of Commerce, to discuss the June 2006 Council of Ministers' decision to give the Commerce Ministry (MOCI) primary responsibility for IPR enforcement (vice the Ministry of Information (MOI)). Previously, MOCI was responsible for patent and trademark issues, but not copyright enforcement. Al-Khalidi said that the entire copyright section from MOI will be moved to the MOCI, but that the bureaucratic details, such as budgets and office space, will probably not be finalized until January [1](#)2007. Once completed, Al-Khalidi said he expects the move to streamline inspections and seizures since MOCI would no longer have limits on its enforcement mandate (Refs A & B). Al-Khalidi said that Rasha Al-Sabah, the IPR enforcement head at MOI, will transfer to MOCI as part of the transfer. (Note: Al-Sabah, although hampered by an almost total lack of support from her superiors, has long been one of the GOK's most aggressive voices on protecting IPR. Her inclusion in the move to MOCI is very positive.)

14. (SBU) On November 8, Econoff met with Rasha Al-Sabah, who is still at MOI, to discuss her new role at MOCI once she and her department make the transfer. At MOCI, Al-Sabah said she will work under Assistant U/S Al-Khalidi and will continue to head the copyright enforcement department and run her team of inspectors. Al-Sabah said the move to integrate enforcement efforts "should have happened a long time ago," stating that responsibility for IPR at the MOI never made sense because MOI is "very local in its thinking," whereas MOCI "has a more international outlook." She said her team of inspectors, about 25 people, are "enthusiastic" about the move, particularly due to the prospect of greater resources to do their jobs. She said she expects greater managerial support for enforcement at MOCI than at MOI.

New Copyright Law Almost Finished

15. (SBU) Al-Sabah said the new draft copyright law is "nearly finished but needs some fine tuning" and that it would not be presented to Parliament until at best early 2007. Al-Sabah said Commerce Undersecretary Hamid Al-Ghanim, who leads Kuwait's TIFA Council, is now "more Catholic than the Pope on IPR" and is pushing hard for the law to be finished. She predicted the law would "easily pass" through Parliament because most MPs do not see it as an important issue. However, she said MP Nasser Al-Sane, who is interested in IT issues, would be "on our side" in support of the law. Econoff asked Al-Sabah about possible USG assistance with fine tuning the draft law, but Al-Sabah replied that USG involvement could risk accusations in Parliament that the U.S. wrote the law and could spur opposition. It is best, she said, to keep the issue as low-profile as possible.

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Customs Forced to Release Counterfeit Filters

16. (SBU) On November 7, Econoff and U.S. Customs advisor met with Kuwait Customs IPR team head Osama Al-Shami and Warren Hayday of General Motors (GM) to discuss a recent shipment of counterfeit oil filters. The filters, produced in Oman by the Oman Filters Industry Company and sold under the MTE name, were packaged in a manner that clearly violated the "trade dress" of GM's AC Delco brand. After initially seizing the shipment, Customs was forced to release it to the importer after the latter presented documents from the Commerce Ministry showing that he had registered the infringing trade dress in 2002. GM's Hayday noted that, from the invoice provided by the shipping company, Oman Oil Filters Company is exporting numerous oil filter models for GM vehicles to Kuwait; the invoice lists these as MTE-25, MTE, 52, etc., imitating AC Delco filter sizes that are listed as AC-25 and AC-52, etc. Hayday said GM will mount a legal challenge to the registration, but was not optimistic about the outcome.

17. (SBU) During the meeting, Al-Shami expressed frustration with the legal departments at MOCI and Customs. The legal offices, he said, claim that if a trademark is not registered in Kuwait, Customs does not have the authority to seize the infringing products. Econoff pointed out that Kuwait, as a signatory to the TRIPS agreement, is obliged to protect trademarks, and encouraged Al-Shami to use that argument with the legal offices. Al-Shami has been nominated by post to attend an upcoming USPTO IPR training course in the U.S. in January 2007, and the International Visitor Program in April 2007.

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